



**State of Connecticut**  
**DIVISION OF CRIMINAL JUSTICE**

**Testimony of the Division of Criminal Justice**

*In Opposition to:*

**S.B. No. 476 (RAISED) An Act Concerning Nonviolent Drug Possession Offenses**

*Joint Committee on Judiciary*  
*March 19, 2010*

The Division of Criminal Justice respectfully requests and recommends that the Committee reject S.B. No. 476, *An Act Concerning Nonviolent Drug Possession Offenses*, for the same reasons the Division opposed similar legislation last year (S.B. No. 349, *An Act Concerning the Penalty for Possession of a Small Amount of Marijuana*, Regular Session, 2009). S.B. No. 476 simply will not achieve its stated purpose of reducing costs to the state because it is not based in the reality of how the criminal justice system works with regard to what is known as the charge of simple possession of marijuana.

No one is sent to prison in this state solely for the simple possession of marijuana. That is the reality. Their cases are nolle, either outright or upon the completion of community service or they are placed in one of the no fewer than five diversionary programs provided for in existing law. These include the Youthful Offender program (Section 54-76b), Pretrial Drug Education Program (Section 54-56i), Community Service Labor Program (Section 53-39c), CADAC (Section 17a-691 through 17a-701), and Accelerated Rehabilitation (Section 54-56e). In some cases, these programs can even be used more than once by the same individual. The bottom line is that people do not go to jail for simple possession - period. If anyone is presently listed as being prison for this offense, it is because that person entered into a plea agreement where the simple possession charge was substituted for the more serious count of possession with intent to sell. As such, no significant savings would result from passage of this bill in terms of the costs of incarceration.

In fact, the bill might very well have the opposite result - it may increase costs to the criminal justice system by resulting in an increase in the number of trials. We have found that with many infractions one of the first questions a defendant will ask is whether the charge will be on that person's record. The response is that it will not be on a criminal record, but that there will be a record of it somewhere. People are never happy with that response because they worry about potential employment implications. This concern will only be heightened in the case of a drug offense. Defendants will therefore ask for an infraction hearing before a magistrate, and at this point the costs will really escalate - to

send the marijuana to a laboratory for testing and for the testimony associated with that testing just to start. For those who lose at this stage, it will be on to a *de novo* hearing before a Judge with all of the associated costs. By comparison, none of this currently happens because the ramifications of a guilty verdict on a drug misdemeanor clearly outweigh the alternative of community service, Accelerated Rehabilitation or a drug education or treatment program. What proponents would lead you to believe is a "simple" change is anything but and may actually dramatically increase the cost and time spent on these cases.

S.B. No. 476 also undermines the highly laudable and desirable public policy goal of promoting substance abuse education and treatment. As previously stated, a common resolution of the case of an individual charged with simple possession of a small quantity of marijuana is referral to an educational or treatment program. This would no longer be an option if the offense were to be classified as an infraction. In fact, such a classification might have the effect of encouraging use since it would simply put "a price" on such use where the individual could again and again with no fear other than having to pay that price. Even repeat traffic tickets - infractions - carry greater sanctions in terms of the ramifications of license suspension, etc. The state should be discouraging substance abuse and not enabling it for those willing to pay the price.

S.B. No. 476 is not the budget savings miracle that some would want us to believe. It is bad public policy based on misconceptions and misinformation as to how the criminal justice system works and it undermines the tremendous effort of many state agencies and private sector entities to discourage substance abuse. The Committee should reject this bill and its empty promises.

Respectfully submitted,

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